

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

(Filed: December 18, 2019)

\*\*\*\*\*

A.P.,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\*\*\*\*\*

\* UNPUBLISHED  
\*  
\* Case No. 16-36V  
\*  
\* Special Master Dorsey  
\*  
\* Damages Award; Proffer; Influenza (“flu”)  
\* Vaccine; Guillain-Barré Syndrome (“GBS”).  
\*

Ronald C. Homer, Conway, Homer, P.C., Boston, MA, for petitioner.

Lara A. Englund, United States Department of Justice, Washington, DC, for respondent.

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On January 8, 2016, A.P. (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”).<sup>2</sup> Petitioner alleged that as a result of an influenza (“flu”) vaccine administered on February 4, 2014, he suffered from Guillain-Barré syndrome (“GBS”). Petition at 1. On August 15, 2017, the undersigned issued a ruling finding that petitioner was entitled to compensation.

On December 18, 2019, respondent filed a Proffer on Award of Compensation (“Proffer”). In the Proffer, respondent represented that petitioner agrees with the proffered

---

<sup>1</sup> Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa.

award. Proffer at 2. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, the undersigned awards petitioner:

- (1) A lump sum payment of \$698,284.19, in the form of a check made payable to petitioner. The total amount includes \$195,000.00 for pain and suffering, \$418,592.00 for lost earnings, and \$84,692.19 for past and future unreimbursable expenses.**

Proffer at 1-2.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** herewith.<sup>3</sup>

**IT IS SO ORDERED.**

s/Nora Beth Dorsey  
Nora Beth Dorsey  
Special Master

---

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

A.P.,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 16-36V
	)	Special Master Nora Beth Dorsey
SECRETARY OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On August 14, 2017, respondent filed a Vaccine Rule 4(c) report concluding that petitioner suffered Guillain-Barre Syndrome within the Table timeframe following an influenza vaccination, and stating that he would not contest petitioner’s entitlement to compensation under the National Childhood Vaccine Injury Act of 1986, as amended, 42 U.S.C. §§300aa-10 to -34. Accordingly, on August 15, 2017, the Chief Special Master issued a Ruling on Entitlement.

**I. Items of Compensation**

Respondent proffers that petitioner should be awarded \$195,000.00 for pain and suffering, \$418,592.00 for lost earnings, and \$84,692.19 for past and future unreimburseable expenses. These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$698,284.19** in the form of a check payable to petitioner.<sup>1</sup> This lump sum payment represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

C. SALVATORE D’ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
Assistant Director  
Torts Branch, Civil Division

s/ LARA A. ENGLUND  
LARA A. ENGLUND  
Senior Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146 Benjamin Franklin Station  
Washington D.C. 20044-0146  
Tel: (202) 307-3013  
E-mail: lara.a.englund@usdoj.gov

Dated: December 18, 2019

---

<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.